

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL NO. 1:06CV121

FILED
ASHEVILLE, N. C.

JUL 31 2006

U.S. DISTRICT COURT
W. DIST. OF N. C.

UNITED STATES OF AMERICA,

Plaintiff,

v.

2004 CHRYSLER 300M
VIN 2C3HE66G84H619088

Defendant.

FINAL JUDGMENT
BY CONSENT
FOR FORFEITURE OF
SUBSTITUTE RES

WHEREAS, the United States filed a verified complaint on April 7, 2006, for the forfeiture of the defendant property (Document 1), and this Court found probable cause for such forfeiture and issued a warrant for arrest *in rem* (Document 2); and

WHEREAS, on or about April 12, 2006, the United States mailed copies of the complaint and warrant by certified mail, return receipt requested, to Frank Douglas Boone, (hereinafter "claimant"), the owner of the defendant property and the person from whose possession the defendant property was seized, and to Boone's counsel, Gary Triggs,; and

WHEREAS, on June 6, 2006, the United States' Marshal's Service, pursuant to the Order and Warrant for Arrest *In Rem*, executed service on the defendant property (Document 3); and

WHEREAS, on April 27, 2006, the United States, pursuant to the Order and Warrant for Arrest *In Rem* and to standing Order of the Court 3:05MC302-C, caused public notice of its intent to forfeit the defendant property to be published in the *News-Herald*, a newspaper of general circulation in Morganton, North Carolina (Document 4); and

WHEREAS, more than thirty days have elapsed since personal service and service by publication, and no one has filed a claim. 18 U.S.C. § 983(a)(4)(A).

WHEREAS, claimant hereby states that he is the sole owner of the defendant property and that he will not file a claim or answer in this case, and the parties agree that this Consent Judgment shall be deemed to suffice in lieu of a claim and answer and that the Court has jurisdiction of claimant's interest in the defendant property; and,

WHEREAS, claimant stipulates that there is probable cause for forfeiture of the defendant property, that the United States District Court for the Western District of North Carolina has *in rem* jurisdiction over the defendant property, and that venue is proper; and

WHEREAS, the parties have agreed that the claimant shall pay to the United States the sum of \$15,000 as a substitute *res* for the defendant property and that the defendant property shall be returned to the claimant; and

WHEREAS, claimant hereby releases and forever discharges the United States, its agents, servants and employees, its successors or assigns, and all state or local governmental entities or law enforcement agencies in North Carolina and their agents, servants and employees, their heirs, successors, or assigns, from any and all actions, causes of action, suits, proceedings, debts, dues, contracts, judgments, damages, claims, and/or demands whatsoever in law or equity which claimant or his heirs, successors, or assigns ever had, now have, or may have in the future in connection with this investigation, seizure, detention, and forfeiture; and

WHEREAS, the parties agree that they shall bear their own costs, including attorney's fees; and

WHEREAS, the parties consent to the United States Magistrate Judge conducting all proceedings, including entry of this Consent Judgment, pursuant to 28 U.S.C. §636(c);

THE COURT FINDS THAT:

1. A verified complaint for forfeiture *in rem* of the defendant property was filed on April 7, 2006. This Court found probable cause for forfeiture and issued a warrant for arrest *in rem*.
2. Process was fully issued in this action and returned according to law.
3. The parties have agreed to the forfeiture of the sum of \$15,000.00 as a substitute *res* for the defendant property.
4. The actions taken by the United States were reasonable and proper.

Based on the foregoing FINDINGS, IT IS HEREBY ORDERED, ADJUDGED, AND

DECREED that:

1. The sum of \$15,000.00 is forfeited to the United States, to be disposed of according to law.
2. The defendant property shall be returned to the claimant.
3. Each party is to bear its own costs of this action, including attorneys fees.

Signed this the 31 day of July, 2006.


DENNIS L. HOWELL
UNITED STATES MAGISTRATE JUDGE

AGREED TO BY AND WITH THE CONSENT OF:



THOMAS R. ASCIK
ASSISTANT UNITED STATES ATTORNEY
North Carolina Bar No. 17116
100 Otis Street
Asheville, North Carolina 28801
828-259-0644
828-271-4670 - fax
thomas.ascik@usdoj.gov



FRANK DOUGLAS BOONE
Claimant



C. GARY TRIGGS
Counsel to Claimant
P.O. Box 579
Morganton, North Carolina 28655
828/433-0872
Fax: 828/437-6693
gtriggs@triggslaw.com